

**SIDE LETTER AGREEMENT BETWEEN THE CITY OF SAN DIEGO AND  
AMERICAN FEDERATION OF STATE, COUNTY, AND MUNICIPAL  
EMPLOYEES, LOCAL 127 RELATED TO 401(K) PLAN  
AND SUPPLEMENTAL EMPLOYEE PENSION SAVINGS PLAN (SPSP)**

Pursuant to the provisions of the Meyers-Milias-Brown Act (MMBA) and the San Diego City Council (Council) Policy 300-06, this Side Letter Agreement (Agreement) is entered into between the City of San Diego (City) and the American Federation of State, County, and Municipal Employees, Local 127 (Local 127) related to the 401(k) Plan and Supplemental Employee Pension Savings Plan (SPSP). The City and Local 127 are collectively referred to as the "Parties."

The City proposed adding clarifying provisions in the Local 127 Memorandum of Understanding (MOU), specifically 401(k) under Article 30 and SPSP under Article 31. Updates are necessary to reflect current City's practice for handling employee benefits, including 401(k), SPSP, and SPSP-H. These additions in no way change or modify the substance of the articles but rather provide greater clarification to the plans themselves.

The Parties agree to the following:

1. The Parties have satisfied all obligations under the MMBA, Council Policy 300-06, and other applicable law and regulations to meet and confer in good faith on the subject of this Agreement.
2. The Parties agree that this Agreement and the following language will go into effect on July 1, 2020:

The 401(k) plan, established July 1, 1985, provides employees the opportunity to save for retirement in a tax efficient manner. The plan allows each participant to determine the type and mix of their investments in the plan from those offered as determined by the Defined Contribution Plans Trustee Board. The provisions of the plan, including eligibility and maximum contributions, are stated in the separate 401(k) Plan Document.

**All part-time benefitted and non-standard hour employees shall be eligible to participate in the 401(k) Plan that is offered to full-time benefitted employees.**

3. The Parties agree that this Agreement and the following language will go into effect on July 1, 2020:
  - C. **A new SPSP was implemented for all employees hired on or after July 1, 1986, through June 30, 2009. For these employees, the voluntary contribution was reduced from 4.5 percent to 3.05 percent to offset the Medicare tax. Future increases in the Medicare or Social Security tax will result in corresponding decreases in the SPSP contribution for the City and the employees.**
1. **This change did not affect or change the SPSP which covers employees hired prior to July 1, 1986.**

2. **The Parties agree that an early retirement provision will be added to the SPSP so that distributions prior to age 59-1/2, but within the City's normal retirement age provisions, will not be subject to the 10 percent excise tax on early distributions.**
3. **Legislation mandated that all employees be covered by a retirement plan effective July 1, 1991, and this change impacted all non-standard hour employees in the Bargaining Units represented by Local 127 since they do not participate in any retirement system. Mandatory participation for these employees in a version of the SPSP was agreed to by the Parties in order to comply with this mandate. Accordingly, the City and Local 127 agreed to the adoption of a new SPSP-H coverage for non-standard hour employees to avoid compulsory inclusion in the Social Security system as mandated by the Omnibus Budget Reconciliation Act of 1990. These new federal regulations mandate Social Security for employees not covered by a "retirement system." Current non-standard hour employees, who are not participating in SDCERS do not meet the requirements of the regulations and must be covered by Social Security or a "retirement" plan effective July 1, 1991.**
4. **In order to comply with this new federal law, the City and Local 127 agreed to the implementation of a new SPSP-H for non-standard hour employees with the following key elements:**
  - a. **3.75 percent employee contribution matched by a 3.75 percent City contribution to meet 7.5 percent minimum requirement.**
  - b. **100 percent immediate vesting.**
  - c. **Monies must remain in the SPSP-H until termination.**
4. Unless expressly covered in this Agreement, all wages, hours, and other terms and conditions of employment presently enjoyed by Local 127-represented employees, whether stated in an MOU, Personnel Regulation, Administrative Regulation or in any other enforceable document, remain in full force and effect.
5. This Agreement is intended to be read in conjunction with the MOU, and where in conflict on the specific issue covered by this Agreement, this Agreement will control.
6. This Agreement will remain in effect unless it is modified through further negotiations in accordance with the MMBA and Council Policy 300-06.
7. The Parties will incorporate the language set forth in this Agreement into any successor MOU negotiated by the City and Local 127 which is approved by the City Council.

This Agreement is executed by the following authorized representatives of each party:

SIDE LETTER AGREEMENT BETWEEN THE CITY AND LOCAL 127 RELATED TO 401(K) PLAN  
AND SUPPLEMENTAL EMPLOYEE PENSION SAVINGS PLAN (SPSP)

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AFSCME Local 127

By: Rodney Fowler Sr.  
Rodney Fowler Sr., President

Date: 9/25/2020

By: Leticia Munguia  
Leticia Munguia, Business  
Representative

Date: 9/25/2020

City of San Diego

By: Abby Jarl-Veltz  
Abby Jarl-Veltz, Assistant Director,  
Human Resources Department

Date: Sep 25, 2020

By: Franklin Coopersmith  
Franklin Coopersmith, Supervising HR  
Analyst, Human Resources Department

Date: Sep 25, 2020

Approved as to form this 28th day of September, 2020.  
MARA W. ELLIOTT, City Attorney

By: Miguel Merrell  
Miguel Merrell, Deputy City Attorney